

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

SOUTHWESTERN ILLINOIS FLOOD)	
PREVENTION DISTRICT COUNCIL,)	
)	
Plaintiff,)	Civil Action No. 15-680
)	
vs.)	(Removal from the Third Judicial Circuit
)	Court of Madison County, Illinois, Case No.
KIEWIT INFRASTRUCTURE CO.,)	2015 L 000667)
)	
Defendant.)	

NOTICE OF REMOVAL OF ACTION TO FEDERAL COURT

TO: The Honorable Judges for the
United States District Court for the
Southern District of Illinois

COMES NOW Defendant Kiewit Infrastructure Co., (“Kiewit”), by and through the undersigned counsel, and pursuant to 28 U.S.C. § 1446, hereby files this Notice of Removal of the above-styled case based on diversity jurisdiction from the Third Judicial Circuit Court of Madison County, Illinois, Case No. 2015 L 000667, where it is currently pending, to the United States District Court for the Southern District of Illinois, and respectfully states to the Court as follows:

A. THE PARTIES

1. Madison County Flood Prevention District (“Madison FPD”) is a flood prevention district created under and existing pursuant to Illinois’ Flood Prevention District Act, 70 ILCS 750/1 *et seq.*

2. Monroe County Flood Prevention District (“Monroe FPD”) is a flood prevention district created under and existing pursuant to Illinois’ Flood Prevention District Act, 70 ILCS 750/1 *et seq.*

3. St. Clair County Flood Prevention District (“St. Clair FPD”) is a flood prevention district created under and existing pursuant to Illinois’ Flood Prevention District Act, 70 ILCS 750/1 *et seq.*

4. Plaintiff Southwestern Illinois Flood Prevention District Council (“SIFPDC”) is a joint entity formed by an Intergovernmental Agreement among Madison FPD, Monroe FPD, and St. Clair FPD.

5. Defendant Kiewit is a corporation organized and existing under the laws of the State of Delaware with its principal place of business located in Omaha, Nebraska. Kiewit is authorized to do business in the State of Illinois.

B. THE UNDERLYING ACTION AND SERVICE OF PROCESS

6. SIFPDC filed an action in the Third Judicial Circuit Court of Madison County, Illinois captioned *Southwestern Illinois Flood Prevention District Council v. Kiewit Infrastructure Co.*, Case No. 2015 L 000667 on May 22, 2015.

7. A Summons directed to Kiewit was issued on or about May 27, 2015.

8. Kiewit was served with the Summons and Petition on June 4, 2015. Kiewit first received a copy of the pleading in this action on May 27, 2015. A true and correct copy of the Summons is attached hereto as Exhibit A. A true and correct copy of the Complaint is attached as Exhibit B. No other process, pleadings or orders have been served upon Kiewit in the State Court action.

C. REMOVAL JURISDICTION – DIVERSITY OF CITIZENSHIP

9. Pursuant to 28 U.S.C. § 1332(a), where complete diversity of citizenship exists and the controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, the district courts shall have original jurisdiction.

10. Pursuant to 28 U.S.C. § 1441, an action may be removed from state court to the district court if the district court would have otherwise had original jurisdiction had suit been commenced there.

11. For diversity of citizenship purposes, Madison FPD, Monroe FPD, St. Clair FPD and Plaintiff SIFPDC are special districts, body politics and/or political subdivisions of the State of Illinois formed pursuant to the Flood Prevention District Act, 70 ILCS 750/1 *et seq.*, and thereby are considered Illinois citizens. Defendant Kiewit is considered a dual citizen of Delaware and Nebraska because Kiewit is incorporated in the State of Delaware and its principal place of business is located in the State of Nebraska. Thus, because complete diversity exists among the parties and the amount in controversy as pleaded in SIFPDC's Complaint exceeds \$75,000.00 exclusive of interest and costs, this action has been properly removed to this district court.

12. Defendant Kiewit is not a citizen of Illinois so Kiewit may properly remove this action to this district court.

D. VENUE

13. The levee restoration construction project which is the subject of this litigation is located in Madison County, Illinois. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because a substantial part of the events giving rise to this matter took place in Madison County, Illinois.

E. TIMING OF NOTICE OF REMOVAL

14. Kiewit is filing this Notice of Removal within thirty (30) days after receipt by Kiewit, through service or otherwise, of a copy of the Complaint. Thus, under 28 U.S.C. § 1446(b), Kiewit's time to remove and to answer have not yet expired. Kiewit reserves all rights and legal defenses, including the right to file a Motion, Answer or other response to the Complaint.

F. NOTICE TO PLAINTIFF AND THE STATE COURT

15. Pursuant to 28 U.S.C. § 1446(d), Kiewit shall promptly serve a copy of this Notice of Removal on SIFPDC and shall promptly file a copy of this Notice of Removal with the Third Judicial Circuit Court of Madison County, Illinois.

G. NOTICE OF RELATED ACTION

16. On May 26, 2015, Kiewit filed suit in this Court against Madison County FPD, Monroe County FPD, St. Clair County FPD and SIFPDC relating to the same subject matter. This matter is captioned *Kiewit Infrastructure Co. v. Madison County Flood Prevention District, et al.*, and has been assigned Case No. 3:15-cv-00581-JPG-DGW.

WHEREFORE, Defendant Kiewit Infrastructure Co., by and through its undersigned counsel, is hereby removing this civil action to the United States District Court for the Southern District of Illinois, and requests that the District Court recognize that the Notice of Removal, the giving of written notice thereof to SIFPDC, and the filing of a copy of this Notice of Removal with the Clerk of the Court for the Third Judicial Circuit Court of Madison County, Illinois effectuate the removal of said civil action to this Honorable Court for proper disposition by this Honorable Court.

Respectfully submitted,

GREENSFELDER, HEMKER & GALE, P.C.

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Kiewit Infrastructure Co.*

CERTIFICATE OF SERVICE

A true and accurate copy of the foregoing has been forwarded to the following parties via U.S. Mail, postage fully prepaid, on the 19th day of June, 2015:

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/s/ Russell K. Scott